

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

**Coyote Creek Trail Master Plan (Story Rd. to US 101), File No. PP08-014.**

The City of San Jose intends to develop an approximately 3.1 mile trail segment between Story Road and US 101 (Watson Park). The trail will generally be located on the eastern side of Coyote Creek and will use existing park trails, maintenance roads, the railroad trestle bridge at Senter Road and public streets and sidewalks. The project is located in Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

The purpose of this notice is to inform the public of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on April 28, 2008, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **March 26, 2008** and ends on **April 25, 2008**. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please call Michael Rhoades at (408) 535-7821.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: March 26, 2008

/s/ Michael Rhoades  
Deputy

**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Coyote Creek Trail Master Plan (Story Road to US 101)

**PROJECT FILE NUMBER:** PP08-014

**PROJECT DESCRIPTION:** The City of San Jose intends to develop an approximately 3.1 mile trail segment between Story Road and US 101 (Watson Park). The trail will generally be located on the eastern side of Coyote Creek and will use existing park trails, maintenance roads, the railroad trestle bridge at Senter Road and public streets and sidewalks.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** multiple parcels (see Initial Study)

**COUNCIL DISTRICT:** 3

**APPLICANT CONTACT INFORMATION:**

City of San Jose Department of Public Works: City Facilities Architectural Services Division  
Jan Palajac, Project Manager (408) 535-8408

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**AIR QUALITY** – The project will implement standard dust control measures, therefore no mitigation is required.

**BIOLOGICAL RESOURCES** – The project could result in significant impacts to biological resources, including riparian habitat, aquatic habitat and special status wildlife species. Potential impacts and mitigation measures that will reduce those impacts to less-than-significant levels are discussed below.

### 1. Riparian Habitat

Impacts to riparian habitat could result from the loss of riparian habitat, including trees, understory, and shaded riverine aquatic habitat. Additionally, trees to be retained may be impacted during construction. The project will implement the following mitigation measures to reduce impacts to riparian habitat (trees and understory habitat loss) to a less than significant levels:

All of the trees to be removed will be replaced at the following ratios:

<b>TREE REPLACEMENT RATIOS</b>				
<b>Diameter of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Non-Native Invasive</b>	
18 inches or greater	5:1	2:1	0.5:1	24-inch box
12 - 17 inches	3:1	2:1	0.5:1	24-inch box
6 – 11 inches	2:1	1:1	0.5:1	15-gallon container
less than 6 inches	1:1	0.5:1	0:1	15-gallon container
<b>Notes:</b> X:X = tree replacement to tree loss ratio Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

Based upon the sizes and species of the trees to be removed, the project proposes to plant approximately 93 replacement trees in one or more mitigation areas and/or along the project alignment. The mitigation ratio for native tree removal exceeds the requirements of the City of San José's Tree Ordinance, although the mitigation ratio for non-native, invasive tree removal is lower because these species represent a threat to riparian habitat value and their removal is not as negative as the removal of native riparian species.

The required tree plantings can be accomplished on approximately 0.47 acres within one or more mitigation areas. Trees to be planted adjacent to the creek, but outside of the mitigation areas, must be native trees appropriate for the Coyote Creek riparian habitat. Trees planted away from the riparian corridor could be native or non-native.

- Based on an area replacement ratio of 1:1, approximately 1,800 sq. ft. of native understory will be replaced as part of the project. This replacement habitat can be located within the same mitigation area(s) as the tree replacement plantings. A Riparian Mitigation and

Monitoring Plan will be completed for the project to mitigate for impacts to riparian habitat and will include:

- Mitigation design, including soil preparation methods, planting plan, and irrigation and maintenance plan;
- Monitoring plan, including performance criteria, monitoring methods, data analysis, monitoring schedule, and remedial/adaptive management.
- Mitigation sites will be monitored over a 10-year period; and a contingency plan for mitigation elements that do not meet performance or final success criteria will be included.

## 2. Aquatic Habitat

The proposed project is not expected to directly or indirectly impact either aquatic or freshwater marsh habitat in Coyote Creek beyond temporary impacts to Shaded Riverine Aquatic habitat due to tree removal, as described in the Initial Study. Construction of the pedestrian bridge over Lower Silver Creek *may* require the installation of falsework and could dewatering the channel during bridge installation, creating temporary impacts to aquatic and freshwater marsh habitat. If in-stream work is required, it is expected that only a small surface area of habitat (96 sq. ft.) would be temporarily impacted. These temporary impacts would be mitigated by restoring the topography and level of soil compaction to the preconstruction condition. Impacts to aquatic habitat would therefore be less than significant.

## 3. Special Status Wildlife Species

Fish: Both steelhead (federally-listed) and Chinook salmon (California species of special concern) are salmonids known to occur in Coyote Creek. A variety of favorable stream conditions are found in the project reach, including potential spawning habitat and suitable rearing habitat for juveniles. The project reach of Coyote Creek is in the Critical Habitat designation for steelhead.

The project would result in short-term, construction-related water quality impacts to salmonids resulting from tree removal in the vicinity of the boardwalk area and construction of the pedestrian bridge over Lower Silver Creek. Mitigation measures are included in the project, as described below, to reduce these impacts to a less than significant level:

- To minimize impacts to salmonids, construction within the creek channel will be restricted to the dry season (July 1st to October 15th), the period after the spawning season when minimal water is in the channel and movement of salmonids within the project area is expected to be minimal. Any salmonid redds (juveniles) downstream from the site should not be impacted directly or indirectly, if construction occurs during this time because redds are not active during this period and minor stream sedimentation from construction activities is not expected to permanently impact salmonid redds downstream. Small amounts of sediment that accumulate in gravelly spawning areas will likely be flushed out when flows increase after rainfall, during the late fall and winter following construction. Environmentally Sensitive Area (ESA) fencing will be installed at the upstream and downstream limits of work within the creek banks and tree removal sites to prevent construction equipment and crews from disturbing the active channel beyond the limits of work.
- It is possible that juvenile steelhead could be moving downstream during the dry season. Therefore, measures will be taken to ensure that individual steelhead are not killed and that movement of steelhead is not prevented by any water-diversion structures used during construction, regardless of the timing of construction. If dewatering is required for construction of the bridge over Lower Silver Creek, a U-shaped coffer dam comprised of

clean gravel and plastic sheeting will be installed. The area of dewatering and construction activity within the channel will be minimized. A qualified fisheries biologist will be present during dewatering, and will relocate any fish trapped within the coffer dam to suitable habitat in the live stream channel. A temporary water diversion structure within jurisdictional waters will require a permit from the US Army Corps of Engineers.

- It is understood that Best Management Practices (BMP) outlined above for aquatic habitat/water quality protection will be implemented. The project will avoid equipment operation in the live stream channel. If work within the stream channel is unavoidable, then any stream flow will be diverted around the work area by a barrier, new channel, or other conveyance capable of permitting upstream and downstream fish movement, as previously described. Construction of such a barrier, or new channel, would normally begin in the downstream area and continue in an upstream direction, and the flow should be diverted only when construction of the diversion is completed. No debris, soil, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material will be allowed to enter into or be placed where it may be washed by rainfall or runoff into Coyote or Lower Silver Creeks.
- All conditions of the Streambed Alteration Agreement to be obtained for the project from CDFG will be implemented.
- To protect water quality in Coyote and Lower Silver Creeks, the project will conform with CASQA's Stormwater BMP Handbook for New and Redevelopment. Implementation of the water quality protection BMPs, including installation of silt fencing between the project and the creek, will prevent adverse impacts to water quality in Coyote and Lower Silver Creeks and minimize potential impacts to aquatic species such as salmonids.
- Machinery will be refueled at least 60 feet from aquatic habitat, and a spill prevention and response plan will be developed.

Special Status Bird Species: The project proposes to implement the following standard measures to reduce construction-related impacts to special status bird species:

- If possible, construction shall be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be completed by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation.
- Between February and August (inclusive), pre-construction surveys shall be completed no more than seven days prior to the initiation of construction activities.
- The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with CDFG, designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.

**CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**GEOLOGY AND SOILS** –The project proposes to implement the following standard measures to avoid geologic and soil impacts:

- Design and construct structures in accordance with the design-level geotechnical investigation to be prepared for the project, which will identify the specific design features that will be required for the project, including site preparation, compaction, excavations, foundation and subgrade design, piers, drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works clearance for the project.
- Implement standard grading and best management practices to prevent substantial erosion and siltation during the development of the site

**HAZARDS AND HAZARDOUS MATERIALS** –The proposed project includes the following mitigation measure to reduce or the potential for hazardous materials impacts to a less than significant level:

- Prior to project construction, a Phase II Environmental Site Assessment (soil testing) will be completed to determine subsurface soil conditions along the proposed trial segment near the former Story Road Landfill site. If significant quantities of potentially hazardous materials are found, appropriate remediation measures and a risk assessment will be completed prior to project construction, per the requirements of the City of San José and the RWQCB
- Phase II Environmental Site Assessment (with soil testing) will be also be completed to determine the subsurface soil conditions in the vicinity of the on-site railroad tracks. If significant quantities of potentially hazardous materials are found, appropriate remediation measures identified in the Phase II will be implemented prior to trail construction in the vicinity of the UPRR right-of-way, per the requirements of the City of San José.

**HYDROLOGY AND WATER QUALITY** – The project proposes to implement the following standard measures to reduce and avoid water quality impacts during construction:

- Best Management Practices (BMPs) as specified in the CASQA Stormwater BMP Handbook for New and Redevelopment shall be implemented (such as silt fences/straw waddles around the perimeter of the site, regular street cleaning, and inlet protection) to reduce water quality impacts from construction activities
- Each phase of development shall comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation, and with the City of San José Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction

**LAND USE AND PLANNING** – The project will not have a significant impact on land use, therefore no mitigation is required.

**MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**NOISE** – The proposed project would result in significant short-term construction-related noise impacts to Selma Olinder Elementary School and San José High Academy. Construction activities that generate noise levels in excess of 60 dBA adjacent to the existing classroom buildings at Selma Olinder Elementary School and San José High Academy will be limited to non-school hours

**POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**RECREATION** – The project will have a beneficial impact on the availability of recreational opportunities.

**TRANSPORTATION / TRAFFIC** – The project will provide additional opportunities for non-motorized transportation and therefore will have a benefit on traffic conditions.

**UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on April 28, 2008 any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on:\_\_\_\_\_

\_\_\_\_\_  
Deputy

Adopted on:\_\_\_\_\_

\_\_\_\_\_

Deputy

Revised 10/19/07